

House Bill 2194

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Department of Human Services to adopt rules permitting exceptions to provider residency and 24-hour caregiver requirements for adult foster homes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to adult foster homes; amending ORS 430.735, 441.100, 443.205, 443.725 and 811.607; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 443.725 is amended to read:

6 443.725. (1) Every provider of adult foster care [*shall*] **must** be licensed with the Department
7 of Human Services before opening or operating an adult foster home caring for adult residents.

8 (2) **Except as provided in subsection (4) of this section**, a provider must live in the home that
9 is to be licensed or hire a resident manager to live in the home.

10 (3) **Except as provided in subsection (4) of this section**, there must be a provider[, *resident*
11 *manager*] or substitute caregiver on duty 24 hours per day in an adult foster home under the juris-
12 diction of the department [*of Human Services*].

13 (4) **The department may adopt rules establishing standards for granting exceptions to the**
14 **requirements of subsections (2) and (3) of this section. The standards must be designed to**
15 **safeguard residents' health and safety and residents' uninterrupted receipt of services.**

16 **SECTION 2.** ORS 430.735 is amended to read:

17 430.735. As used in ORS 430.735 to 430.765:

18 (1) "Abuse" means one or more of the following:

19 (a) Any death caused by other than accidental or natural means.

20 (b) Any physical injury caused by other than accidental means, or that appears to be at variance
21 with the explanation given of the injury.

22 (c) Willful infliction of physical pain or injury.

23 (d) Sexual harassment or exploitation, including but not limited to any sexual contact between
24 an employee of a facility or community program and an adult.

25 (e) Neglect that leads to physical harm through withholding of services necessary to maintain
26 health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the
27 state or a community program to provide services due to a lack of funding available to provide the
28 services.

29 (2) "Adult" means a person who is mentally ill or developmentally disabled, who is 18 years of
30 age or older and receives services from a community program or facility.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploi-
2 tation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and
3 funds. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive
4 to the adult and provides for the greatest degree of independence.

5 (4) "Care provider" means an individual or facility that has assumed responsibility for all or a
6 portion of the care of an adult as a result of a contract or agreement.

7 (5) "Community program" means a community mental health and developmental disabilities
8 program as established in ORS 430.610 to 430.695.

9 (6) "Department" means the Department of Human Services.

10 (7) "Facility" means a residential treatment home or facility, residential care facility, adult fos-
11 ter [care] home, residential training home or facility or crisis respite facility.

12 (8) "Law enforcement agency" means:

13 (a) Any city or municipal police department;

14 (b) Any county sheriff's office;

15 (c) The Oregon State Police; or

16 (d) Any district attorney.

17 (9) "Public or private official" means:

18 (a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or
19 podiatric physician and surgeon, including any intern or resident;

20 (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an
21 in-home health service;

22 (c) Employee of the Department of Human Services, county health department, community
23 mental health and developmental disabilities program or private agency contracting with a public
24 body to provide any community mental health service;

25 (d) Peace officer;

26 (e) Member of the clergy;

27 (f) Licensed clinical social worker;

28 (g) Physical, speech or occupational therapist;

29 (h) Information and referral, outreach or crisis worker;

30 (i) Attorney;

31 (j) Licensed professional counselor or licensed marriage and family therapist; or

32 (k) Any public official who comes in contact with adults in the performance of the official's du-
33 ties.

34 **SECTION 3.** ORS 441.100 is amended to read:

35 441.100. (1) "Administrative action" means any action or decision made by an owner, employee
36 or agent of a long term care facility or by a public agency that affects the services to residents.

37 (2) "Committee" means the Long Term Care Advisory Committee.

38 (3) "Designee" means an individual appointed by the Long Term Care Ombudsman to serve as
39 a representative in order to carry out the purpose of ORS 441.100 to 441.153.

40 (4) "Long term care facility" means any licensed skilled nursing facility intermediate care fa-
41 cility, as defined in rules adopted under ORS 442.015, adult foster [care] homes with residents over
42 60 years of age and residential care facility as defined in ORS 443.400.

43 **SECTION 4.** ORS 443.205 is amended to read:

44 443.205. As used in ORS 443.215 and 443.225, "domiciliary care facilities" means facilities pro-
45 viding residential care to adults, including adult foster [care] homes, group care facilities or resi-

1 denial treatment, training or care facilities, established, contracted for or operated by the
2 Department of Human Services.

3 **SECTION 5.** ORS 811.607 is amended to read:

4 811.607. The Department of Transportation shall issue disabled person parking permits in the
5 form of program placards for use on vehicles that are regularly used as part of a program for the
6 transportation of disabled persons or by an adult foster [*care*] home. All the following apply to
7 placards issued under this section:

8 (1) The department shall determine the form, size and content of the placards except that the
9 department shall require that a placard contain the name of the program holding the placard and
10 the department shall require that the expiration date of a placard be visible when the placard is
11 displayed in the vehicle.

12 (2) Placards issued under this section shall be valid for a period of eight years from the date
13 of issue. Upon expiration, placards may be renewed in a manner determined by the department by
14 rule. The department shall authorize renewal by mail of placards issued under this section.

15 (3) The department shall determine by rule how programs for the transportation of disabled
16 persons may qualify vehicles for placards issued under this section.

17 **SECTION 6. This 2007 Act being necessary for the immediate preservation of the public**
18 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
19 **on its passage.**

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